

ATTACHMENT 12

CORRESPONDENCE FROM GOVERNMENT AGENCIES REGARDING PROPOSED ANNEXATION AND CANCELLATION OF THE WILLIAMSON ACT



DEPARTMENT OF CONSERVATION
STATE OF CALIFORNIA

RECEIVED
JUN 15 2004
PLANNING DIVISION

June 7, 2004

DIVISION OF
LAND RESOURCE
PROTECTION

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CALIFORNIA
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ARNOLD
SCHWARZENEGGER
GOVERNOR

Ms. Jamie McLeod, Associate Planner
City of Sunnyvale Community Development
Planning Division
456 W. Olive Street
Sunnyvale, CA 94088

RE: Petition for Cancellation of Land Conservation Contract No.
71.144; Landowner Yvonne Jacobson Trust

Dear Ms. McLeod:

The Department of Conservation (Department) has received notice as required by Government Code section 51284.1 for the above referenced matter.

The alternative use identified in the cancellation petition involves the development of 3.7-acres for retail and residential uses. The petition requests the termination of the last enforceably restricted portion of Land Conservation Contract No. 71.144, a 2.4-acre parcel. A cherry orchard and a single-family residence currently occupy the 2.4-acre parcel which is located at the southwest corner of Mathilda Avenue and El Camino Real in an unincorporated area of Santa Clara County. The parcels lie within the City of Sunnyvale's (City) urban service area and an application for annexation is in progress.

Cancellation Findings

Government Code section 51282 states that tentative approval for cancellation may be granted only if the board makes one of the following findings: 1) cancellation is **consistent** with purposes of the Williamson Act or 2) cancellation is in the **public interest**. The Department has reviewed the petition and information provided and offers the following comments.

Cancellation is Consistent with the Purposes of the Williamson Act

For the cancellation to be consistent with purposes of the Williamson Act, the Sunnyvale City Council (Council) must make findings with respect to all of the following: 1) a notice of nonrenewal has been

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served, 2) removal of adjacent land from agricultural use is unlikely, 3) the alternative use is consistent with the City's General Plan, 4) discontinuous patterns of urban development will not result, and 5) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

A notice of nonrenewal was recorded for the remainder of Contract No. 71.144 on October 7, 1999, by the Santa Clara County Recorder's Office. It appears the contract will expire through nonrenewal on December 31, 2009. The Attorney General has opined that nonrenewal is the preferred contract termination method: "If a landowner desires to change the use of his land under contract to uses other than agricultural production and compatible uses, the proper procedure is to give notices of nonrenewal pursuant to Government Code section 51245." (54 Ops. Cal. Atty. Gen 90, 92 (1971).)

The cancellation parcel is surrounded by urban development and is the last remaining acreage in the agricultural preserve. As adjacent lands are not in agricultural use, the second consistency finding is supported.

The cancellation parcel is designated to permit a mix of residential, retail and office development in the Sunnyvale General Plan. Once jurisdiction of the parcel passes to the City, the third consistency finding can be supported.

The subject parcel is adjacent to existing public facilities, a commercial shopping center and an auto dealership; therefore the fourth and fifth consistency findings are supported.

Cancellation is in the Public Interest

For the cancellation to be in the public interest, the Council must make findings with respect to all of the following: (1) other public concerns substantially outweigh the objectives of the Williamson Act and (2) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. Our comments have already addressed the second finding required under public interest finding above.

The Supreme Court of the State of California held that "any decision to cancel land preservation contracts must analyze the interest of the public as a whole in the value of land for open space and agricultural use." (*Sierra Club v. City of Hayward* (1981), 28 Cal. 3d 840, 856)

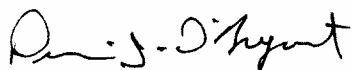
Provided that the information presented is complete and accurate, it appears that the Council has an adequate basis to support the findings required to cancel the proposed

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parcel of contracted land, provided annexation of the subject contracted land to the City of Sunnyvale is approved.

Thank you for the opportunity to provide comments on the proposed cancellation. Please provide our office with a copy of the Notice of the Public Hearing on this matter ten (10) working days before the hearing and a copy of the published notice of the Council's decision within 30 days of the tentative cancellation pursuant to Government Code section 51284. Additionally, we request a copy of the Santa Clara County Assessor's cancellation valuation for the proposed cancellation and a copy of the discussion of the Council's findings pursuant to Government Code section 51282. If you have any questions concerning our comments, please contact Adele Lagomarsino, Program Analyst at (916) 445-9411.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. O'Bryant".

Dennis J. O'Bryant
Acting Assistant Director

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-5505
(800) 735-2929 TTY



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MAY 25 2004

PLANNING DIVISION

May 17, 2004

SCL-082-17.04
SCL082355

Ms. Jamie McLeod
City of Sunnyvale
456 West Olive Ave
Sunnyvale, CA 94088

Dear Ms. McLeod:

707 and 711 South Mathilda Avenue - Retail / Residential Development Proposal

Thank you for including the California Department of Transportation in the environmental review process for the proposed project. We have reviewed the retail / residential development proposal for the project and have the following comments to offer.

Focused Traffic Analysis

Since a minimum level of traffic analysis is essential to assessing potential impacts to state facilities, analysis focusing on project trip generation and access should be provided as described below. We strongly encourage the City of Sunnyvale to coordinate preparation of the Traffic Study with our office, and we would appreciate the opportunity to review the scope of work. Please see the Department's "Guide for the Preparation of Traffic Impact Studies" at the website below for more information. Proof of mitigation, as appropriate, should be required prior to issuance of a building permit.
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>

1. Project Site plan, clearly showing project access dimensions and configuration in relation to State Route 82 (SR-82); all ingress and egress points as well as State Right-of-Way (ROW) should be clearly shown. Plan should be drawn to scale, and should include a North arrow. Project access should be accurately described in terms of the closest post mile.

2. The Traffic Study should describe roadway configuration and geometry along project frontage on SR-82, e.g., the number of lanes, and lane and shoulder widths should be described. Site characteristics including access dimensions, configuration and turning radius should also be included.
3. Project-related vehicle and truck trip generation, distribution, and assignment. The assumptions and methodologies used to develop this information should be detailed in the study. Average Daily Trips (ADT), AM and PM peak hour trips should be included.
4. Current ADT, and if available, AM and PM peak hour volumes on SR-82 during peak conditions. Traffic count data should be the most recent available, and in no case should be more than two years old. Recent count data may be available from the Department's website listed below:
<http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/index.htm>

Project Access

1. Project access at SR-82 should be evaluated in the environmental document to determine if roadway improvements or driveway modifications are needed to ensure safe and convenient roadway conditions. The analysis should provide sufficient detail of any recommended improvements to ensure both that they are feasible and that sufficient ROW exists to complete the improvements as envisioned in the analysis. Project driveway intersections at SR-82 should be consistent with Caltrans Standard Private and Commercial Driveway approach. Completion of any necessary improvements should be required prior to issuance of the project permit. Caltrans' Highway Design Manual 2000 (HDM 2000) is available online for more information at the link below:
<http://www.dor.ca.gov/hq/oppd/hdm/hdmtoc.htm>
2. Corner sight distance from the proposed project's driveway(s) to SR-82 should be consistent with Caltrans standard requirements per the HDM 2000.
3. All recommended roadway improvements should be installed prior to issuance of the project operations permit.

Right of Way

Please be advised that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State ROW to the following address:

Mr. Sean Nozzari, District Office Chief
Office of Permits
California Department of Transportation, District 04

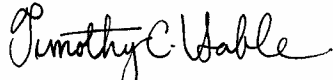
"Caltrans improves mobility across California"

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May 17, 2004
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P. O. Box 23660
Oakland, Ca 94623-0660

Should you require further information or have any questions regarding this letter,
please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

A handwritten signature in cursive script that reads "Timothy C. Sable".

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
(510) 286-4454 TDD

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MAY 28 2004

PLANNING DIVISION



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May 25, 2004

SCL-082-16.76
SCL082356

Ms. Alice G. Gamboa-Navas
P.O. Box 3707
Sunnyvale, CA 94080-3707

Dear Ms. Gamboa-Navas:

Proposed Site Plans for El Camino Real and Sunnyvale-Saratoga Road

Thank you for including the California Department of Transportation in the early stages of the environmental review process for the proposed project. We have reviewed the site plans and have the following comments to offer.

Project Access

Project access at SR-82 should be evaluated in the environmental document to determine if roadway improvements or driveway modifications are needed to ensure safe and convenient roadway conditions. The analysis should provide sufficient detail of any recommended improvements to ensure both that they are feasible and that sufficient ROW exists to complete the improvements as envisioned in the analysis. Project driveway intersections at SR-82 must be consistent with Caltrans Standard Private and Commercial Driveway approach. Completion of any necessary improvements should be required prior to issuance of the project permit. Caltrans' Highway Design Manual 2000 (HDM 2000) is available online for more information at the link below: <http://www.dor.ca.gov/hq/oppd/hdm/hdmtoc.htm>

Encroachment Permit

Please be advised that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State ROW to the following address:

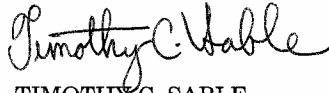
Ms. Alice G. Gamboa-Navas
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Mr. Sean Nozzari, District Office Chief
Office of Permits
California Department of Transportation, District 04
P. O. Box 23660
Oakland, Ca 94623-0660

Should you require further information or have any questions regarding this letter,
please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

A handwritten signature in cursive script that reads "Timothy C. Sable".

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA